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*[Proposed] Lead Counsel for
 Movant and the Class*

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

MARK YOUNG, Individually and on Behalf of All Others Similarly Situated,)	No. 3:22-cv-03912-JD
)	
Plaintiffs,)	OPPOSITION OF MOHAMMED RASHID
)	TO COMPETING LEAD PLAINTIFF
v.)	MOTION
)	
)	<u>CLASS ACTION</u>
SOLANA LABS, INC.; THE SOLANA)	
FOUNDATION; ANATOLY)	Judge: James Donato
YAKOVENKO; MULTICOIN)	Hearing Date: October 13, 2022
CAPITAL MANAGEMENT LLC;)	Time: 10:00 AM
KYLE SAMANI; and FALCONX LLC,)	Ctrm: 11 – 19th Floor (San Francisco)
)	
Defendants.)	
)	
)	
)	

Movant Mohammed Rashid (“Mr. Rashid”) respectfully submits this memorandum in opposition to the competing lead plaintiff motion. Dkt. No. 33.

I. INTRODUCTION

Under the Private Securities Litigation Reform Act of 1995 (the “PSLRA”) courts are to appoint as lead plaintiff the person or group of persons with “the greatest financial stake in the outcome of the case, so long as he meets the requirements of Rule 23.” *In re Cavanaugh*, 306 F.3d 726, 729 (9th Cir. 2002); *In re Cendant Corp. Litig.*, 264 F.3d 201, 268-69 (3d Cir. 2001); 15 U.S.C. §78u-4(a)(3)(B).

Competing movant Mark Young (“Mr. Young”) has failed to trigger the PSLRA’s “most adequate plaintiff” presumption. Despite alleging larger losses than Mr. Rashid, Mr. Young has not made the initial showing of Rule 23 adequacy and typicality required to trigger the most adequate plaintiff presumption under the Private Securities Litigation Reform Act of 1995 (“PSLRA”). 15 U.S.C. § 77z-1(a)(3)(B)(iii). It is critical to note that courts determining the most adequate lead plaintiff do not merely perform a rote mathematical calculation of comparing alleged losses. Numerical loss is only the first step in the process. The second step is analyzing a proposed lead plaintiff’s typicality and adequacy under Rule 23.

Mr. Young’s selection of Roche Freedman LLP (“Roche Freedman”) as counsel, in light of the recent controversy surrounding said firm, indicates either an inability or unwillingness to oversee the litigation. Therefore, Mr. Young has failed to make the initial showing of Rule 23 adequacy. Mr. Rashid, on the other hand, has losses stemming from unregistered Solana securities and has made the initial showing of adequacy and typicality. Therefore, he is the most adequate plaintiff under the PSLRA and should be appointed lead plaintiff.

ARGUMENT

II. MR. YOUNG IS INADEQUATE

a. Roche Freedman’s Involvement Endangers the Entire Class

Mr. Young is inadequate for selecting counsel with substantial issues which are specifically at issue in this case. Roche Freedman and named partner Kyle Roche are subject to intense scrutiny in crypto cases like this one.¹

On August 26, 2022 (and updated August 31, 2022), *Crypto Leaks* released a report entitled “Ava Labs (Avalanche) attacks Solana & cons SEC in evil conspiracy with bought law firm, Roche Freedman” (the “Report”)², attached as Exhibit A to Declaration of Laurence M. Rosen (“Rosen Decl.”), filed herewith. According to the Report, Kyle Roche and his firm

¹ This issue is in addition to the ongoing litigation surrounding a founding member of the law firm Roche Cyrulnik Freedman LLP which also, in part, relates to crypto assets. *See Roche Cyrulnik Freedman LLP v. Jason Cyrulnik*, case no. 1:21-cv-1746 (S.D.N.Y.); *Cyrulnik v. Roche*, case no. 2021-005837-CA-01 (Fla.Cir.Ct.); and *Kyle Roche et al. v. Jason Cyrulnik*, case co. 3D21-1741 (Fla. 3d DCA).

² <https://cryptoleaks.info/case-no-3>;
<https://web.archive.org/web/20220902154151/https://cryptoleaks.info/case-no-3>.

1 entered into a secret pact with blockchain company Ava Labs whereby Kyle Roche and his firm
 2 would pursue class action litigation against competing blockchain companies. Through these
 3 suits, Kyle Roche would damage and distract Ava Labs' and its token AVAX's competitors,
 4 lure federal authorities to focus on Ava Labs' and AVAX's competitors, gain insight into Ava
 5 Labs' and AVAX's competitors through discovery, and generally protect and grow his large
 6 stake in Ava Labs and AVAX through litigation—specifically securities class actions. Not
 7 surprisingly, Kyle Roche, in a video in the Report, also made disparaging remarks about class
 8 members in general by referring to them as “100,000 idiots out there.”

9 In the wake of these revelations, Kyle Roche has withdrawn as counsel in numerous
 10 crypto class actions, many of which are in this Court, including the instant action. *See*, Dkt. No.
 11 28; *see also*, *Lockhart v. BAM Trading Services Inc. (Binance U.S.), et al.*, case no. 3:22-cv-
 12 03461-JSC (N.D. Cal.), Dkt. No. 33; *Valenti v. DFINITY USA Research LLC, et al.*, case no.
 13 3:21-cv-06118-JD (N.D. Cal.), Dkt. No. 70; *Jeong v. Nexo Capital Inc., et al.*, case no. 5:21-cv-
 14 02392-BLF (N.D. Cal.), Dkt. No. 70; *Hardin and Williams v. TRON Foundation, et al.*, case no.
 15 1:20-cv-02804-VSB (S.D.N.Y.), Dkt. No. 88; *Anderson, et al. v. Binance, et al.*, case no. 1:20-
 16 cv-02803-ALC (S.D.N.Y.), Dkt. No. 80. In another case, Roche Freedman has filed a motion to
 17 withdraw its representation of the class due to “recent restructuring of its class action practice
 18 group, the press of its current business, and the early stage of this litigation, the firm seeks leave
 19 to withdraw from this case.” *Williams v. Block.One, et al.*, case no. 1:20-cv-02809-LAK
 20 (S.D.N.Y.), Dkt. No. 154.

21 Kyle Roche's withdrawals have also faced unique issues. In *In re Tether and Bitfinex*
 22 *Crypto Asset Litigation*, case no. 1:19-cv-09236-KPF (S.D.N.Y.), Dkt. Nos. 229-232, the
 23 defendants have filed letters in response to his withdrawal which raise the same issues which
 24 defendants undoubtedly will here because of the Report—including risks that Roche Freedman
 25 and Kyle Roche would use confidential discovery material for financial gain on the part of Ava
 26 Labs and AVAX. Rosen Decl. Exs. B and C.

27 And although Kyle Roche withdrew as counsel from this case, the firm, Roche
 28 Freedman, remains as counsel. *See*, Dkt. No. 28 (“Any and all future CM/ECF notifications

1 should remain directed towards Velvel Freedman, Edward Normand, Stephen Lagos, and Ivy
 2 Ngo, attorneys of record for Plaintiff Mark Young.”). Given Roche Freedman’s continued
 3 participation in this action, including named partner Velvel Freedman³, Defendants may turn the
 4 focus of the litigation away from issues common to the class and focus on Roche Freedman’s
 5 involvement in the case.

6 Lastly, in another crypto case, Schneider Wallace Cottrell Konecky LLP (“Schneider
 7 Wallace”), Roche Freedman’s co-counsel in the instant case, has expressed “that Roche
 8 Freedman’s continued involvement in [that] litigation is not in the best interests of the class.”
 9 *In re Tether*, Dkt. No. 234 at 1. Yet in this case, Schneider Wallace has taken a conflicting
 10 position, allowing Roche Freedman to remain counsel. No explanation is provided as to this
 11 conflicting position.

12 **b. Mr. Young Has Failed to Oversee Counsel**

13 Mr. Young’s selection and continued retention of counsel demonstrates his inadequacy.
 14 *In re Quintus Sec. Litig.*, 201 F.R.D. 475, 482 (N.D. Cal. 2001) (“if a representative plaintiff
 15 does not select competent counsel, he cannot meet the adequacy requirement of FRCP 23 and
 16 the PSLRA.”). Despite the now-widely publicized scandal surrounding Kyle Roche and Roche
 17 Freedman, Mr. Young has failed to provide any explanation as to his selection of counsel in
 18 light of recent events, Roche Freedman’s future involvement in this case, and what relationship,
 19 if any, he has with Kyle Roche and/or Roche Freedman.

20 * * *

21 In contrast to Mr. Young, Mr. Rashid has triggered the lead plaintiff presumption. Mr.
 22 Rashid lost \$9,853.10. He lives in New York, where he works as a pharmacy technician. Mr.
 23 Rashid earned an associate degree in telecommunications and has been investing for over 20

24 ³ Velvel Freedman, under the agreement with Ava Labs, was to receive 32% of AVAX tokens
 25 given to Roche Freedman:
 26 [https://d33wubrfki0l68.cloudfront.net/319440ddc242d8567d7c1f244543d1629aff0b6b/d18f2/i](https://d33wubrfki0l68.cloudfront.net/319440ddc242d8567d7c1f244543d1629aff0b6b/d18f2/img/roche-freedman-avax.jpeg)
 27 [mg/roche-freedman-avax.jpeg](https://d33wubrfki0l68.cloudfront.net/319440ddc242d8567d7c1f244543d1629aff0b6b/d18f2/img/roche-freedman-avax.jpeg) (last visited September 20, 2022). Although the Report does not
 28 allege any misconduct by Velvel Freedman, his continued interest in AVAX tokens should have
 precluded him from continuing to participate in this and other crypto litigations. That Roche
 Freedman did not volunteer this information, nor remove Velvel Freedman voluntarily from this
 litigation, is concerning.

1 years. Mr. Rashid has no issues relating to his adequacy and typicality and has triggered the
2 lead plaintiff presumption and should be appointed lead plaintiff.

3 Here, Mr. Rashid selected The Rosen Law Firm, P.A. (“Rosen Law”) as Lead Counsel.
4 As demonstrated in its opening papers (Dkt. No. 29, at 8-9), Rosen Law has the resources and
5 expertise to litigate this action efficiently and aggressively. As such, the Court should grant Mr.
6 Rashid’s selection of Rosen Law as Lead Counsel.

7 **V. CONCLUSION**

8 For the foregoing reasons, Mr. Rashid respectfully request that the Court issue an Order:
9 (1) appointing Mr. Rashid as Lead Plaintiff of the class; (2) approving Rosen Law as Lead
10 Counsel; and (3) denying the competing Lead Plaintiff Motion.

11
12 Dated: September 20, 2022

Respectfully submitted,

13 **THE ROSEN LAW FIRM, P.A.**

14 /s/ Laurence M. Rosen

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21 *[Proposed] Lead Counsel for*
22 *Movant and the Class*
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PROOF OF SERVICE

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:

I am the managing partner of The Rosen Law Firm, P.A., with offices at 355 South Grand Avenue, Suite 2450, Los Angeles, CA 90071. I am over the age of eighteen.

On September 20, 2022, I electronically filed the following **OPPOSITION OF MOHAMMED RASHID TO COMPETING LEAD PLAINTIFF MOTION** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 20, 2022.

/s/ Laurence M. Rosen

Laurence M. Rosen